

16188. Misbranding of crab meat. U. S. v. Nelson R. Coulbourn. Plea of guilty. Fine, \$50. (F. & D. No. 22546. I. S. Nos. 14819-x, 20382-x.)

On July 14, 1928, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Nelson R. Coulbourn, Crisfield, Md., alleging shipment by said defendant, in violation of the food and drugs act as amended, on or about August 3, 1927, from the State of Maryland into the State of New Jersey, of quantities of crab meat which was misbranded.

It was alleged in the information that the article was misbranded in that the statement, to wit, "Net Contents 1 Lb.," borne on the cans containing the said article, was false and misleading in that the said statement represented that each can contained 1 pound net of the article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of said cans contained 1 pound net of the article, whereas each of said cans did not contain 1 pound net of the said article but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On January 28, 1929, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

16189. Adulteration and misbranding of Optolactin tablets. U. S. v. 9 Bottles of Optolactin Tablets. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 23332. I. S. No. 05747. S. No. 1457.)

On January 15, 1929, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 9 bottles of Optolactin tablets, remaining in the original unbroken packages at Boston, Mass., alleging that the article had been shipped by Fairchild Bros. & Foster, New York, N. Y., on or about December 19, 1928, and transported from the State of New York into the State of Massachusetts, and charging adulteration and misbranding in violation of the food and drugs act as amended.

It was alleged in substance in the libel that the article was adulterated in that its strength fell below the professed standard under which it was sold.

Misbranding was alleged for the reason that the following statements, (carton and bottle label) "A preparation of the *Bacillus Bulgaricus*, Type A * * * and of a selected established strain of the *Bacillus Acidophilus* * * * Optolactin will retain its activity up to the date specified, Feb. 20, 1929," (circular) "Optolactin is composed of mixed cultures of the *Bacillus Bulgaricus*, type A, and of *Bacillus Acidophilus* * * *. This product, Optolactin, will enable those who attach a special importance to the *Bacillus Acidophilus* to try it in combination with bacilli already well known * * *. Optolactin has all the qualities of the *Bacillus bulgaricus* * * * with such new and important properties as may be derived from the inclusion of the *Bacillus Acidophilus*. This Optolactin presents the mixed cultures of these lactic organisms in an effective form, viable to the period dated. The five-grain tablet of Optolactin has a content of the Bulgarian bacilli, type A * * *, with the associated *Bacillus Acidophilus*," were false and misleading in that the article fell below the professed standard of strength set forth in said statements.

Misbranding was alleged for the further reason that the following statements regarding the curative and therapeutic effects of the article appearing in the circular, "In chronic cases its systematic ingestion is desirable, in acute cases until the desired result is obtained," were false and fraudulent, in that the article contained no ingredient or combination of ingredients capable of producing the effects claimed, and in that the said statements were applied to the article knowingly and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to the purchasers thereof and create in the minds of such purchasers the impression and belief that the article was in whole or in part composed of or contained ingredients or medical agents effective in the treatment of disease or for the prevention thereof.